DOCUMENT RESUME

ED 424 951 PS 027 080

TITLE	Child Care Center Regulations.
INSTITUTION	Nebraska State Dept. of Health and Human Services, Lincoln.
REPORT NO	DSS-PAM-365
PUB DATE	1997-09-00
NOTE	30p.
PUB TYPE	Guides - General (050) -- Legal/Legislative/Regulatory Materials (090)
EDRS PRICE	MF01/PC02 Plus Postage.
DESCRIPTORS	Certification; Child Advocacy; Child Caregivers; Child Health; Child Welfare; Childhood Needs; Children; *Compliance (Legal); *Day Care; *Day Care Centers; Educational Legislation; Legal Responsibility; Preschool Education; School Law; State Legislation; *State Regulation
IDENTIFIERS	Day Care Licensing; *Day Care Regulations; Licensed Programs; *Nebraska; Regulatory Programs

ABSTRACT

This guide enumerates regulations for anyone caring for four or more children, from families other than their own, for compensation and on a regular basis, in the state of Nebraska. The purpose of the regulations is to protect and promote the health and safety of children in child care facilities. The first section of the guide lists specific child care regulations including: (1) definitions; (2) types of licenses; (3) licensing process; (4) administration; (5) staff qualifications; (6) program; (7) meals and snacks; (8) discipline; (9) materials and equipment; (10) outdoor play area; (11) infant care; (12) child health; (13) transportation; (14) swimming/wading activities; (15) alternative compliance with regulations; (16) sanitation regulations; (17) storage; (18) napping/sleeping arrangements; (19) grounds; and (20) fire safety regulations. The second section outlines broader policies, including: (1) public access to licensing files; (2) information released to governmental entities; (3) information not released; (4) child care provider access to licensing files; (5) restricted information; (6) death of a child; and (7) emergency closing orders. The guide's final section delineates the legal basis of child care licensing as presented in Nebraska statutes. (SD)

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CHILD CARE CENTER REGULATIONS

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PS 027080

INTRODUCTION

Nebraska law requires anyone caring for four or more children at any one time, from families other than their own, for compensation, and on a regular basis, to be licensed.

Nebraska law also requires the Department of Health and Human Services to write and publish the regulations under which care is to be provided. In doing so, the Department has sought the advice and assistance of parents, child care operators, and other knowledgeable persons in the field of child care. A citizen committee was appointed in December of 1978 to assist the Department of Public Welfare in this task. The committee was designed to reflect the varied interests and concerns of parents and child care providers in Nebraska which provided the Department with recommendations for revising the regulations. Using the work of this committee as a framework, the Department wrote and published regulations which defined the minimum level of acceptable care to be provided in centers.

In addition, on January 9, 1996, the Governor of the State of Nebraska signed regulations developed by the Department of Social Services to implement LB 510 and address other changes in the regulations for child care centers.

The purpose of these regulations is to protect and promote the health and safety of children in child care facilities. They have the full force and effect of law.

The fact that a child care center is licensed in no way lessens the responsibility of parents for ensuring that their children receive child care which promotes health development. Those individuals who have a concern or questions about child care should contact:

Resource Development and Support
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301 Centennial Mall South
Lincoln, NE 68509-5044
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1-800-600-1289

printed on recycled paper

CHILD CARE CENTER REGULATIONS

Effective Date: August 9, 1982

Issued by the Nebraska Department of Health and Human Services under the authority of Sections 71-1908 through 1918, Revised Statutes of Nebraska.

This publication is a handbook for Licensees which restates the regulations that are codified under Title 474 of the Nebraska Administrative Code, Chapter 6, Section 002. A different numbering system is used in this handbook for the convenience of the Licensee.

CHILD CARE REGULATIONS

DEFINITIONS

Agency Representative: Any person employed by the Nebraska Department of Health and Human Services, the Nebraska Department of Health and Human Services Regulation and Licensure, State Fire Marshal, and their designated agents.

Ages of Children:

1. Infant - A child age 6 weeks to 18 months of age.
2. Toddler - A child age 18 months to 36 months.
3. Preschooler - A child age 36 months to schoolage.
4. Schoolager - A child who attends grades kindergarten and above.

Child Care: The provision of care -

1. To four or more children under age 13 at any one time from families other than that of the provider;
2. For on the average of less than 12 hours per day;
3. For compensation, either indirect or direct;
4. On a regular basis; and
5. By a person other than their parents/guardians (Section 71-1910, Nebraska Revised Statutes).

Child Care Center: A facility licensed to provide child care for 13 or more children.

Child Care Resource Specialist: A Department staff person responsible for measuring compliance with licensing regulations, and who provides consultation and technical assistance to child care providers.

Department: The Nebraska Department of Health and Human Services.

Director: The person who is responsible for the daily operation of the child care center, including compliance with all regulations.

Evening Care: Care provided to children between 7:00 p.m. and 6:00 a.m.

Family: Individuals who are not household members and have one or more children enrolled in the child care program. Child care provided to four or more children from more than one family requires a license.

Licensee: The owner of the child care program, if different than the director, and the person(s) to whom the license is issued.

Parent: The natural parent, adoptive parent, or stepparent(s), guardian or other legally responsible person.

Preschool: An early childhood program which provides primarily educational services, where children do not nap and where children are not served a meal.

Recreation Camp: Programs or services that are recreational, social, or instructional and that are provided on a time-limited or irregular schedule and are not for the purpose of providing child care services.

Regulation: A requirement or policy having the force and effect of law.

Room: An area with four walls flush from the floor to the ceiling and at least one passageway. A partition may be considered a wall if the partition is at least 4 feet high, is flush to the floor and to other walls, and the partitioned area includes only one passageway at least 28 inches but not more than 36 inches wide.

Rule: A regulation having the force and effect of law.

Support Staff: Those persons, whether paid or volunteer, employed by the center in such positions as aides, food service, clerical, custodial and transportation.

Swimming Pool: Any artificial basin with more than 12 inches of water which has been designed for the purpose of swimming.

Teacher/Assistant Teacher: The person who is responsible for the direct care of children, whether paid or volunteer.

Wading Pool: A portable above-ground basin that is filled with 12 or fewer inches of water, and that is designed for the purpose of wading.

TYPES OF LICENSES: All child care licenses are effective only for the address shown on the license, and as follows:

1. Provisional License: The license issued to all newly licensed child care centers for the first year of operation. This license may be extended for one six-month period.

2. Operating License: The standard two-year license issued to child care centers who have been licensed for more than one year and are in full compliance with all regulations.

3. Probationary License Status: The license status determined when a child care center is found to be out of compliance with regulation(s) and has a corrective action plan approved by the Department that specifies how compliance will be achieved in no more than six months. This status cannot be renewed or extended.

LICENSING PROCESS

1. The Department of Health and Human Services shall not issue a license to operate a child care center until the following materials are on file:

    a. An application which is current, accurate, and complete, and includes a list of all staff including volunteers and substitutes.

    b. Evidence of compliance with sanitation rules, fire safety rules, and all Nebraska Department of Health and Human Services rules.

    c. A sketch, diagram, or print of the facility showing the arrangement of rooms to be used by the children, including dimensions and the outdoor play area, including dimensions.

    d. A sample daily schedule for each age group in care.

    e. A sample weekly menu.

2. The Licensee shall report the following changes to the Department of Health and Human Services:

   a. Change in location.

   b. Change in building or building usage.

   c. Change in director.

   d. Change in licensee/owner.

   e. Change in age of children for whom the facility provides care.

   f. Change in hours care is provided.

ADMINISTRATION

3. The current license must be prominently posted so that it is clearly visible to parents and others.

4. The center must be open to visits by parents of the children enrolled or agency representatives during hours of operation.

5. The center shall have on file a completed Children's Record (Form DSS-0363) or a form which contains at least the same information, for each child within 30 days of enrollment. This information must be made available to licensing staff upon request.

6. The center shall maintain copies of children's immunization records. These records will be available for review upon request.

7. The center shall comply with all Nebraska Department of Health and Human Services requirements regarding the immunization status of all enrolled children.

8. Staff records must include, but are not limited to:

   a. The name, address, and telephone number of each staff member.

   b. Health Information Report (DSS-0915) or a report containing the same information for all persons having contact with the children and/or food service.

   c. A statement from the director certifying that s/he has verified staff qualifications.

   d. Dates of employment and separation.

   e. Statement from each staff person, including volunteers, substitutes, and the director, providing information concerning any felony and/or misdemeanor arrests and convictions, and any pending criminal charges. The statement must be signed and dated.

STAFF QUALIFICATIONS

9. The Director shall make available to the Department of Health and Human Services, written verification of meeting staff qualifications (i.e., copy of transcript, letter of verification, grade reports, reference letters, certificates).

10. If a volunteer or substitute works over 15 hours per week **AND** is counted in the staff-child ratio, that person shall meet the requirements for the position s/he is assuming.

11. Within 30 days of hiring and annually thereafter, each staff member shall provide a Health Information Report (DSS-0915) current within six months of hiring or a report containing the same information.

12. The Department of Health and Human Services shall clear the names of all staff employed by the center, as indicated on the application, with the Nebraska Central Registry of Child Abuse and Neglect and the Nebraska Adult Protective Services Registry before issuing a license.

13. The licensee and the director shall not knowingly allow any person, neither paid nor volunteer, who has been convicted of, admitted to, or there is substantial evidence of crimes involving intentional bodily harm, crimes against children, crimes involving the illegal use of a controlled substance, or crimes involving moral turpitude to be on the center premises. Center staff, whether paid or volunteer, shall not engage in or have a history of behaviors injurious to or which may endanger the health or morals of the children in care.

14. The Licensee shall list all staff, including volunteers and substitutes, on each application filed with the Department.

15. The Director must have reached the legal age of majority.

    a. For centers licensed for **more** than 22 children, the Director shall meet one of the following requirements:

        (1) Have the minimum of a high school diploma or general education diploma and two years of verifiable experience in organized group activities for schoolage children, as indicated by a positive reference from a former employer(s)/supervisor(s);

        (2) Verify that s/he has successfully completed 6 credit hours or 36 clock hours of Department-approved in-service in the area of child development, early childhood education, or child care administration. Business courses may be included not to exceed 50% of the credit or clock hour requirements;

        (3) Have a Child Development Associate Credential;

        (4) Hold an associate degree in child development, early childhood education or child care administration;

        (5) Hold a bachelor degree from an accredited college or university and at least 6 credit hours in child development or early childhood education; or

        (6) Hold a bachelor degree in child development or early childhood education from an accredited college or university.

        For centers licensed for **not more than** 22 children, the Director shall:

        (1) Meet one of the options listed in item a; or

        (2) Have a written Department-approved plan to acquire at least 6 credit hours or 36 clock hours of Department-approved in-service in the area of child development, early childhood education, or child care administration in a period not to exceed 12 months. Business courses may be included in the plan, not to exceed 50% of the credit or clock hour requirements.

16. The Director shall provide the licensee with at least two non-relative references before hiring. One of the references must be from a previous child care employer, if applicable. The reference check may be conducted by phone. A written record of the references must be retained in the Director's staff file and available for review by licensing staff, upon request.

17. The Teacher/Assistant Teacher must have reached the legal age of majority. S/he shall meet one of the following:

    a. Obtain a written Department-approved plan to acquire at least 3 credit hours or 15 clock hours of Department-

approved in-service in the area of child development, early childhood education, or child care administration in a period not to exceed 12 months;

b. Verify that s/he has one year of experience in organized group activities for young children as indicated by a positive reference from a former employer(s)/supervisor(s);

c. Have a Child Development Associate Credential; or

d. Hold a bachelor or associate degree in fields related to the care/education of children age 0-12 years (i.e., early childhood education, child development, elementary education, special education).

18. The Director shall obtain at least two non-relative references for each teacher and assistant teacher within 30 days of hiring. One of the references must be from a previous child care employer, if applicable. The reference check may be conducted by phone. A written record of the references must be maintained in the employee's staff record and available for review by licensing staff, upon request.

19. The support staff shall be at least 16 years of age.

20. Candidates being considered for employment as a director, teacher, assistant teacher, and all support staff must be checked against the Nebraska Central Registry of Child Abuse and Neglect and the Nebraska Adult Protective Services Registry before being hired.

21. The Licensee is responsible for reporting any arrests, misdemeanor tickets other than traffic violations, pending criminal charges, and/or any felony/misdemeanor convictions on themselves, the director and staff, which includes teachers/assistant teachers and all support staff. Candidates being considered for employment as a director, teacher, assistant teacher, and/or support staff shall submit a signed "Felony/Misdemeanor Statement" (DSS-0600) to the licensee or director. The licensee or director shall request additional information from the appropriate law enforcement agency as needed to comply with Department regulations.

22. The Director shall insure that any person having responsibility for children has read and is familiar with the "Child Care Center Regulations" (DSS-PB-365).

IN-SERVICE REQUIREMENTS

23. Each center staff person shall participate in in-service annually as provided below:

a. Director (if director is also acting as a teacher), teacher, assistant teacher, and teacher aide training must be in the area of child care or early childhood education and include at least 12 clock hours per year; and

b. The staff person responsible for menu planning shall obtain at least 4 clock hours of training in the area of nutrition and food service during the first year of employment. If not the same, this person is responsible to train the cook in food handling and preparation.

c. If a volunteer or substitute works over 15 hours per week **AND** is counted in the staff-child ratio, that person must meet the in-service requirements for the position s/he is assuming.

24. Each training hour for caregiving staff must be specifically related to the care of children.

25. Each hour spent participating in any of the following types of child care related activities counts toward yearly requirements: job orientation, workshops, college credit hours, non-credit course work, adult education courses, and Department-approved reading material.

26. Written documentation must be available for each of the above types of training.

STAFFING

27. Staff-child ratio must be met at all times. Compliance with staff-child ratio must be determined on a center-wide basis.

28. The center shall count only those persons directly involved with the immediate care of the children in the staff-child ratio.

29. Each room where children are receiving care must include a teacher/assistant teacher.

30. At least two staff persons must be on the premises at all times. When the number of children under care is 8 or fewer, this may be met by having one of the staff members on call and immediately available. If infants are included in this number, staff-child ratio must be met.

31. During naptime, at least one person shall be in the room where children are napping, provided that staff-child ratio is maintained on the center premises.

32. All staff on duty shall be awake and alert to the needs of the children during napping/sleeping times.

33. Center staff or any person designated by the licensee as having responsibility for children shall have the responsibility to provide adequate and appropriate supervision at all times children are in attendance. Evidence of negligent or willful lack of supervision is basis for denial of the application or suspension or revocation of the center's license.

34. Staff-Child Ratio:

Age Range of Children	Number of Staff	Number of Children
6 weeks to 18 months	1	4
18 months to 3 years	1	6
3 years	1	10
4 and 5 years	1	12
Kindergarten and up	1	15

35. The licensee shall insure that the center's license capacity is never exceeded.

PROGRAM

36. A written daily schedule, which provides for the following, must be posted:

    a. Physical care routines including regular snack and meal times, nap or rest period, and toileting and washing.

    b. Activities including outdoor play (weather permitting), individual and group play, and active and quiet play.

MEALS AND SNACKS

37. The center shall serve regular meals, mid-morning snacks or breakfast, and mid-afternoon snacks which meet U.S. Department of Agriculture nutritional standards.

38. The center shall serve any child present when a meal or snack is being served.

39. A snack or lunch must be served when schoolage children arrive at the facility after school.

DISCIPLINE

40. The center shall ensure that no child is pinched, punched, left alone, shaken, struck with any object, bitten, or spanked by staff; a brief, supervised separation from the group may be used.

41. Staff shall not discipline children -

    a. By denial of food;

    b. By forced napping,

    c. For a toileting accident; or

    d. With subjection to derogatory remarks about themselves or their family, abusive or profane language, yelling or screaming, or threats of physical punishment.

MATERIALS AND EQUIPMENT

42. The center shall provide enough age-appropriate play materials so that, at any one time, each child enrolled at the center can be individually involved.

43. Play materials, equipment, and furnishings must be easily cleanable, kept clean and in good repair, have no sharp edges and have no rusty or loose parts. If available to infants and toddlers, play materials, equipment and furnishings must not be easily breakable nor have small parts.

44. Furniture and equipment must be arranged so as not to interfere with exits.

OUTDOOR PLAY AREA

45. When the outdoor play area does not directly join the indoor facility, it must be reached by a route and plan approved by the Department. The center shall maintain the written plan on file at the facility and submit a copy to the Department.

46. Stationary outdoor equipment such as a climbing apparatus, swings, or slides must be located away from traffic areas in the play yard and securely anchored, unless designed to be portable.

47. Swing seats must be made of a pliable material, not hard plastic, wood, nor metal.

48. The area under climbing equipment, swings, slides, and other equipment from which children might fall, must be a resilient material such as sand, dirt, grass, or rubber matting.

INFANT CARE

49. Center staff shall meet the emotional and physical needs of infants consistently and promptly. This includes:

    a. Talking to, holding, and playing with infants;

    b. Allowing infants the opportunity (both morning and afternoon) to explore the environment outside of their cribs;

    c. Ensuring that each crib contains at least one infant toy such as a cradle gym, mobile, or stuffed animal;

    d. Immediately investigating cries of infants; and

    e. Providing each staff member giving care to infants with the written assignment to care for the same infants daily.

50. The center shall obtain and keep on file a written statement signed and dated by the parent, giving formula and feeding schedule. If formula is brought from home, it must be labeled with the child's name and stored in the refrigerator. If the center provides the formula, it must be made from commercially prepared products.

51. Staff shall hold infants up to six months old while bottle feeding.

52. Bottles must not be propped and must be removed from sleeping infants.

53. Infants who are capable of feeding themselves but cannot sit in child-size chairs at child-size tables must be seated in highchairs with safety straps.

54. The center shall use unbreakable dishes and nursing bottles.

55. Staff shall change infants' diapers when needed.

56. Staff shall use individual washcloths, towels, or disposable towelettes to cleanse infants during diapering.

57. Staff shall clean diaper changing surfaces after each use by sanitizing the surface or changing the diaper pad or disposable sheeting.

58. Staff shall wash their hands thoroughly with soap and water after changing a diaper.

59. Staff shall place toilet training chairs away from eating and playing areas.

60. Rooms where infants are receiving care must be limited to the care of 12 children at any one time. If five or more infants are receiving care in a room, at least two staff persons must be in the room at all times.

61. The center shall provide bumper pads for each crib in which a child under six months old sleeps.

62. Equipment such as cribs with wheels, buggies, wagons, or laundry carts must be available for emergency evacuation of infants unless additional staff above the ratio are available to carry infants.

CHILD HEALTH

63. At least one staff member who has received first aid training which includes CPR must be on duty at all times, as evidenced by the staffing chart. The CPR instructor must be certified by the American Heart Association, American Red Cross, the National Safety Council, or Emergency Medical Planning American (Medic First Aid). Written verification of current training must be available.

64. The following first-aid supplies must be available but inaccessible to the children: fever thermometer, band-aids, sterile gauze pads, tweezers, and tape.

65. Center staff shall give or apply medication, either prescription or nonprescription, only with prior permission and written instructions from the parent. Medication must be in the original container, stored according to the instructions, clearly labeled for a named child, and returned to the parent or destroyed when no longer needed. The center shall maintain a record as to the time and amount of medication given or applied.

66. Staff shall not smoke in the presence of children. Alcohol or controlled substances, as defined in Section 28-401 through 403 and 28-439, Revised Statutes of Nebraska, 1943, must not be consumed on the premises during the hours of operation of the center.

FACILITY

67. Each center shall have at least 35 square feet of indoor activity space for each child. Bathrooms, kitchen, isolation room, office, passageways, storage, or space occupied by cribs, cots, or built-in cabinets must not be considered when computing activity space.

68. The center shall have a working non-coin-operated telephone on the premises.

69. Emergency phone numbers for the following must be prominently posted near the phone: fire, police, poison control, hospital, and ambulance.

70. The Licensee shall develop a written fire evacuation plan and a tornado safety plan to be posted in a conspicuous place and practiced on a quarterly basis, with the dates and time recorded. At least one drill per year must be practiced during naptime.

71. A vehicle must be immediately accessible for use by staff members for emergency purposes if the 911 emergency phone number is not available.

TRANSPORTATION

72. The Licensee shall ensure that safety restraints are available and used for each child transported. All children under the age of four years OR forty pounds must be correctly secured in a federally approved child safety seat. All children from age four OR a weight of forty pounds must be secured in a safety belt. Restraints are not required for children transported by public transportation or school bus.

73. The Licensee shall ensure that passenger seating, as designed by the vehicle manufacturer, is available for each child transported.

74. The Licensee shall ensure that the number of children transported does not exceed the seating capacity indicated by the vehicle manufacturer.

75. The Licensee shall ensure that all doors on the vehicle are locked when the vehicle is in motion.

76. The Licensee shall ensure that parent or guardian signed permissions are obtained to allow the center to transport children. These permissions must be kept on file.

SWIMMING/WADING ACTIVITIES

77. All centers with swimming pools on the center premises shall comply with the Nebraska Swimming Pool Act and its subsequent rules and regulations. Centers using swimming pools not on center premises shall determine that the pool is licensed by the Department of Health and Human Services Regulation and Licensure.

78. If the depth of the water in the pool is over 4 feet, a person who has satisfactorily completed a senior course in lifesaving sponsored by the Red Cross, Boy Scouts, Girl Scouts, YWCA, YMCA or an institution of higher learning, shall be on duty at all times the pool is in use.

79. The wading/swimming pool must be inaccessible to children in care when not in use by the center.

80. The center shall not use natural bodies of water for swimming or wading activities.

81. When a swimming or non-portable pool is in use (except in the case of organized swimming lessons), the following staff-child ratio must be maintained:

Age Range of Children	Number of Staff	Number of Children (Water not over child's head)	Number of Children (Water over child's head)
6 weeks to 24 months	1	1	1
24 months to 3 years	1	2	1
3 years to Kindergarten	1	5	3
Kindergarten and up	1	8	5

ALTERNATIVE COMPLIANCE WITH REGULATIONS

The Department may grant alternative compliance with regulations if the Department determines that the alternative offers equal protection to children and meets the intent of the regulation for which alternative compliance is sought.

Alternative compliances are not intended to waive or provide exemptions from regulations. Alternative compliances will not be granted for exceeding the license capacity, staffing, transportation, supervision, fire safety inspection disapprovals, and/or any regulation for which denial or suspension/revocation action(s) has been taken.

To request alternative compliance (DSS-0914), the applicant/licensee shall submit the following information to the Department in writing:

1. The regulation for which alternative compliance is sought (a separate request is necessary for each regulation that will be met in an alternate form);

2. An explanation of why the regulation cannot be met; and

3. Justification (how the facility will meet the intent of the regulation and continue to provide for the health and safety of the children).

Alternative compliances will be time limited, but may not exceed the current license period.

The Department may require the applicant/licensee to provide clear, supportive evidence and/or expert opinion.

SANITATION REGULATIONS

Sanitation rules are set by the State Department of Health and Human Services Regulation and Licensure. Compliance with these rules is determined by the Nebraska Department of Health and Human Services Regulation and Licensure or its designated local representative.

FACILITY

To be licensed, all centers must have:

1. Clean and dry rooms.

2. Floors which are easily cleanable and kept clean and in good repair.

3. No carpeting in the food preparation area.

4. Removable, washable, non-shag carpet in the bathrooms, if carpeting is used.

5. Walls and ceilings which are clean and in good repair.

6. In rooms where food is stored or prepared - walls and ceilings which are smooth, of easily cleanable construction, and furnished in a light color; walls subject to splash must have a smooth, washable surface; and only non-lead paint.

7. Effective screening on all openings into the outer air when flies or other flying insects are prevalent.

8. Self-closing doors on openings to the outside which swing in the direction of exiting traffic.

9. Prevent the entrance and harborage of rodents.

10. The temperature of rooms where children receive care maintained between 65-70 degrees Fahrenheit. A temperature of at least 72 degrees Fahrenheit must be maintained at floor level when infants are in care.

11. An accurate room thermometer on an inside wall, away from a heater or direct sunlight.

12. All rooms adequately lighted at a minimum of 20 ft. candle power (measure of illumination).

13. Safety caps on all electrical outlets within the reach of children under 6 years of age.

14. Well-ventilated play areas, bathrooms, service rooms, and kitchens. Facilities newly constructed or extensively remodeled after January 1, 1983, must have positive ventilation.

TOILET AND LAVATORY FACILITIES

The Licensee shall ensure that:

15. The facility has conveniently located toilet facilities at a ratio of one stool per 15 children, two years of age and above.

16. Toilet rooms are kept clean, in good repair, well-lighted, well-ventilated, and fully enclosed.

17. Each toilet is of suitable height and equipped to be easily and safely used by children.

18. Doors to the toilet room opening directly from food service areas are self-closing and tight-fitting.

19. Handwashing facilities are provided at a ratio of one sink to every 15 children.

20. The sinks are readily accessible to each toilet and/or diaper area.

21. Hot and cold running water and soap are provided.

22. Water temperature at the lavatory is at least 100 degrees Fahrenheit, but no greater than 120 degrees Fahrenheit.

23. Single service towels and individual washcloths, and facilities for storing them are provided; the use of a common towel and washcloth is prohibited.

24. Sanitary dispensing and disposal units are provided for paper towels and are installed at heights convenient for the children's use.

25. Each lavatory is of suitable height or equipped with a steady platform or steps to be safely used by the children.

26. No adult or child resumes work or play after using the bathroom without first washing his/her hands.

WATER SUPPLY

The Licensee shall ensure that:

27. The water supply is obtained from a source which is properly located, constructed, and operated to protect it from contamination and pollution. Water must meet current standards set by the Nebraska Department of Health and Human Services Regulation and Licensure as to bacteriological, chemical, and physical tests for purity. Bacteriological and nitrate tests must be provided at least annually.

28. Running water under pressure is provided.

29. Adequate water heating facilities are provided so that a sufficient amount of hot water for general cleaning as well as washing and sanitizing utensils is available at proper temperatures.

30. Each hot water storage tank is provided with a pressure and temperature release value.

31. Drinking water is provided by sanitary drinking fountains or individual cups; the use of common drinking containers is prohibited.

32. Sanitary dispensing and disposal units are provided for paper cups.

33. Drinking fountains used by children have mouth guards with water issuing under sufficient pressure.

PLUMBING

34. No plumbing fixture or other device which provides a connection between a drinking water supply and a drainage, soil, waste or other sewer pipe so as to make possible a backflow of sewage or waste water in the potable water supply system, is installed or remains installed. Water which has been used for cooling or for any other purpose must not be returned to the system.

35. All plumbing conforms to the local plumbing code. Where no plumbing code is in effect, plumbing must conform to the National Plumbing Code USA A 40.8-1955.

SEWAGE AND GARBAGE

The Licensee shall ensure that:

36. Sewage and all liquid wastes are properly discharged into a municipal sewage system where such a system is available. If it is not available, the sewage must be collected, treated, and disposed of in an independent sewage system which complies with the practices recommended by local ordinances. Where local ordinances do not exist, sewage disposal systems for individual premises must comply with regulations of the Nebraska Department of Health and Human Services Regulation and Licensure.

37. All garbage and refuse is collected, stored, and disposed of in a manner which will not create a nuisance, provide a breeding place for flies, or provide food or harborage for rodents.

38. All containers, both indoor and outdoor, for garbage and refuse are watertight, have tight-fitting covers, and are fly and rodent proof.

39. The burning of garbage is prohibited. Paper products may be disposed of by burning.

STORAGE

The Licensee shall ensure that:

40. Locked storage is provided solely for drugs.

41. Separate locked storage is provided for insecticides, cleaning, polishing, and sanitizing agents, and any other poisons; these poisons must be kept separate from food items and inaccessible to children.

42. Firearms, ammunition, and other potentially hazardous equipment are kept in locked cabinets.

43. Covered waterproof containers are provided for storing wet, soiled clothing; other soiled clothing must be stored in a covered container provided for that purpose.

44. Clean and adequate storage is provided for all personal items of children and staff; this storage must not be the same storage area where food or medication is kept.

45. Toothbrushes, if used, are distinctly marked for individual use.

NAPPING/SLEEPING ARRANGEMENTS

The Licensee shall ensure that:

46. Individual cribs, cots, or mats (suitable to the child's age and level of development) and a cover are provided for each child.

47. For evening care, each child is provided with a cot with a firm, waterproof mattress.

48. Each crib has a waterproof mattress.

49. Mats are waterproof, at least one inch thick, and at least 45 inches long.

50. At least three feet of space separates the cribs, cots, and mats.

51. Cots, cribs, and mats are disinfected daily or marked for individual use and disinfected weekly or more often when needed.

52. Stacked cribs are not used for infant sleeping/napping in centers initially licensed after January 1, 1983.

GROUNDS

The Licensee shall ensure that:

53. A fenced outdoor play area is provided for children six weeks to kindergarten age.

54. The outdoor play area accommodates at least 25% of the licensed capacity at one time.

55. When in use, the outdoor play area provides a minimum of 50 square feet for each child using it.

56. The fence for the outdoor play area is at least three feet high, free from sharp, hazardous edges, and of sufficient construction to keep animals and intruders out.

57. There are no barnyard animals or fowl in the fenced area. Pets, if present, must be physically controlled or restrained.

58. The grounds are kept neat and clean and free from rodent harborages and accident hazards; the grounds must be properly sloped or drained to prevent stagnant water collection.

59. Accident hazards, such as flammable materials, deep pools, farm and lawn equipment, are inaccessible; potential accident hazards such as uncovered wells, broken glass, boards containing nails, and other debris must be eliminated.

Standards governing food service sanitation are found in Part IV of the Food Service Sanitation Manual, 1976; Recommendations of the U.S. Public Health Service.

FIRE SAFETY REGULATIONS

Fire safety regulations for child care centers are included in "Regulations Promulgated by Nebraska State Fire Marshal Governing Safety to Life From Fire and Like Emergencies in Buildings and Structures; and General Fire Prevention" and may be obtained from the Office of the State Fire Marshal, Lincoln. When an application for a child care center license is filed with the Department of Social Services, a referral for a fire safety inspection will be made on behalf of the applicant by the Department of Social Services.

In accordance with Nebraska State Statute 81-505.01 - 1983, the Nebraska State Fire Marshal will charge an inspection fee for state licensure inspections in health care, liquor, mobile trailer courts, and child care facilities. Contact the State Fire Marshal for fee schedule at (402) 471-2027.

POLICIES

Public Access to Licensing Files:

Department staff shall release information regarding the name of the child care program/preschool, address, telephone number, type of license, license capacity, hours and days of care, ages of children served, and license effective dates upon verbal or written request.

The following forms, reports, correspondence and documents will be released upon either verbal or written request:

Application/Affidavit
Alternative Compliance Request
Registration Referral Form - Fire Safety Inspection/Fire Marshal
Registration Referral Form - Sanitation Inspection/Department of Health and Human Services Regulation and Licensure
Rules Compliance Checklist
Closure Form
Noncompliance Report/Compliance Review
Fire Safety Inspection Reports and Correspondence
Sanitation Inspection Reports and Correspondence
Letters initiating revocation, denial or suspension of a license
Licensing Agreements
Emergency Closing Orders
Order of License Reinstatement
Finding and Order resulting from an appeal hearing
Declaratory Ruling resulting from a failure to appeal

Information Released to Other Governmental Entities:

Copies of the following documents may be sent to other governmental entities:

Warning letters
Noncompliance Reports/Compliance Reviews
Extensions of provisional licenses
Issuances of probationary licenses
Letters initiating action to deny, suspend, or revoke a license
Emergency Closing Orders

If the above information includes any reference to specific names of children, their parents, Child Protective Services reports or records or Law Enforcement investigative reports, these references will be deleted before release.

Information Not Released:

The following information documents or forms will **NOT** be released:

Names, address and phone numbers of complainants
Names of enrolled children and their parents/guardians
Child Protective Services reports or records, Adult Protective Services reports or records, Nebraska Child Abuse and Neglect Central Registry and Nebraska Adult Protective Services Central Registry information or Law Enforcement investigative reports
Felony/Misdemeanor Statements
Reference Release Statements

Reference Letters
Enrollment/Attendance Form
Internal Department correspondence
Investigative reports and notes
Documentation regarding unlicensed care investigations
Medical Records/Health Information Reports

Department staff shall not release information until the licensee has received the information or a reasonable effort has been made to provide the licensee with the information.

Requested information will be available five working days after the request is received.

If a determination is made to deny a request for information and the requesting party objects or further insists on production, the licensing staff shall consult with the Legal Division for assistance in preparation of a written response as required by Nebraska Revised Statutes, Section 84-712.04.

Child Care Provider Access to Licensing Files:

Child care providers shall receive a statement describing noncompliance(s) and/or complaint(s) specific to child care licensing regulations during the licensing visit.

Child care providers must have the opportunity to provide written comment about all noncompliances and complaints in the following ways:

1. The child care provider may indicate comments and/or clarification on the agency documentation at the time of the visit.

2. The child care provider may submit a written letter or memo to the appropriate Child Care Resource Specialist or Supervisor. Department staff shall attach the letter or memo to the noncompliance documentation and forward to the Central Office file.

3. A written confirmation will be sent to the provider indicating that the information has been placed in the Central Office file.

Providers shall have the right to review their child care program licensing file that is retained in the Department Central Office, Lincoln, Nebraska. Requested information will be available for review in Lincoln Central Office, 301 Centennial Mall South, Lincoln, Nebraska, from 9:00 a.m. to 4:00 p.m. on weekdays except for state holidays, ten business days after the request is received.

Restricted Information:

All information contained in this file may be reviewed with the exception of the following:

1. Any information that identifies person(s) who made complaints or alleged noncompliance with regulations;

2. Child Protective Services reports and records, Nebraska Child Abuse and Neglect Central Registry information, Adult Protective Services reports and records, Nebraska Adult Protective Services Central Registry information and law enforcement investigative reports;

3. Reference letters;

4. Internal Department correspondence;

5. Investigative reports and notes; and

6. Documentation regarding unlicensed care investigations.

Death of a Child:

Upon notification of a death of a child attending any child care facility, Child Protective Services shall be notified, and a Child Care Resource Specialist shall determine if the child care facility is licensed. If the child care program is licensed, a clearance with the Nebraska Child Abuse and Neglect Central Registry will be completed for the following individuals: all caregivers, household members, other involved parties, and the deceased child. A review of relevant licensing files, if applicable, will also be completed by Resource Development and Support staff.

If the Nebraska Child Abuse and Neglect Central Registry and/or file indicate possible concerns, Resource Development and Support staff shall inform the appropriate Child Protective Services supervisor and local law enforcement agency by telephone followed by written notice. Documentation of contact will be placed in the licensing file if the incident occurred in a licensed facility. The documentation will be filed separately if the incident occurred in an unlicensed facility.

One of the following sources may be used when obtaining verification of such incidents:

1. Law enforcement reports and County Attorney records, including Coroner's report

2. Death Certificate via Department of Health and Human Services, Vital Statistics

Should documentation reveal that death is attributed to S.I.D.S. (Sudden Infant Death Syndrome), that information will be filed in the Central Office licensing file. A telephone call offering support and resource information may be made by Resource Development and Support staff.

Should documentation reveal that the death was of a nature other than S.I.D.S. and was not the result of any law violation, that information will be filed in the Central Office licensing file. A telephone call offering support and resource information may be made by Resource Development and Support staff.

Should documentation reveal that the death was crime-related, the information will be reviewed to determine noncompliance with licensing regulations and a negative action will be initiated.

Notification of Parents When an Emergency Closing Order is Issued:

Whenever the Director of the Department of Health and Human Services finds that an emergency exists requiring immediate action to protect the physical well-being and safety of children in a child care program, the Director may issue an "Emergency Closing Order" declaring the existence of an emergency and requiring that action be taken as the Director deems necessary. Any licensed child care provider to whom the Emergency Closing Order is directed shall comply immediately.

Department staff shall inform the parents of enrolled children of the issuance of the Emergency Closing Order by telephone and in writing.

Parents and appropriate Department staff shall be informed of the following:

1. An Emergency Closing Order was issued by the Director of the Department of Health and Human Services to protect the physical well-being and safety of the children in care at the facility;

2. The date and time the order is effective;

3. A general description of the circumstances which endangered the health and safety of the children;

4. An explanation of how parents may obtain information regarding the facility's compliance with licensing standards.

5. The names and telephone numbers of resources that could assist parents in locating another provider, if necessary; and

6. The name and work number of the specialist's supervisor.

Appropriate Department staff shall be notified when a decision has been made to issue an Emergency Closing Order and when the Order has been delivered.

Lifting of an Emergency Closing Order:

If an Emergency Closing Order is lifted, written notice will be immediately provided.

The Department shall inform the parents of enrolled children in writing when an Emergency Closing is lifted.

LEGAL BASIS
NEBRASKA STATUTES (REVISED)
ARTICLE 19
CHILD CARE LICENSING

71-1908. Legislative findings.

71-1909. Sections, purpose.

71-1910. Terms, defined.

71-1911. Child care program; license; fee; issuance; renewal, denial.

71-1911.01. Display of License.

71-1912. Department; establish standards; investigation; inspection.

71-1913. Fire and health inspections.

71-1913.01. Immunization requirements; record; report.

71-1913.02. Immunization reports; audit, deficiencies; departments; duties.

71-1913.03. Immunization; department; adopt rules and regulations.

71-1914. Department; serve as coordinating agency; local rules and regulations; report of violation.

71-1915. Violations; charges; content; notice; hearing; penalty; emergency powers; injunction.

71-1916. Department; administrative procedures.

71-1917. Annual report; contents.

71-1918. Existing rules and regulations; effective; when.

71-1908. Legislative Findings. The Legislature finds that there is a present and growing need for quality child care programs and facilities. There is a need to establish and maintain licensure of providers of all such programs to ensure that providers are competent and are using safe and adequate facilities. The Legislature further finds and declares that the development and supervision of programs are a matter of statewide concern and should be dealt with uniformly on the state and local levels. There is a need for cooperation among the various state and local agencies which impose standards on providers of programs and there should be one agency which coordinates the enforcement of such standards and informs the Legislature about cooperation among the various agencies.

71-1909. Sections, Purpose.

(1) The purposes of sections 71-1908 to 71-1917 are to provide:

(a) Statewide licensing of providers of child care programs; and

(b) The Department of Social Services with authority to coordinate the imposition of standards on providers of programs.

(2) It is the intent of the Legislature that the licensing and regulation of programs under such sections exist for the protection of children and to assist parents in making informed decisions concerning enrollment and care of children in such programs.

71-1910. Terms, Defined. For purposes of sections 71-1908 to 71-1917, unless the context otherwise requires:

(1) Department shall mean the Department of Social Services;

(2) Director shall mean the Director of Social Services; and

(3) Program shall mean the provision of services in lieu of parental supervision for children under thirteen years of age for compensation, either directly or indirectly, on the average of less than twelve hours per day, but more than two hours per week, and shall include any employer-sponsored child care, family child care home, child care center, school-age child care program, school-age services pursuant to section 79-444, or preschool or nursery school. Program shall not include casual care at irregular intervals, a recreation camp, classes or services provided by a religious organization other than child care or a preschool or nursery school, a preschool program conducted in a school approved pursuant to section 79-328, or foster care as defined in section 71-1901. The State Board of Education may adopt and promulgate rules and regulations which shall apply to any program and any school-age care program operated or contracted by a public school district.

71-1911. Child Care Program; Licenses when required; Fee; Issuance; Renewal, Denial.

(1) A person may furnish a program for three or less children without having a license issued by the Department, except that if such person has had a license issued pursuant to subsection (2) of this section and such license has been suspended or revoked pursuant to section 71-1915, such person shall not furnish a program for three or less children until the person is licensed pursuant to this section.

(2) No person shall furnish or offer to furnish a program for four or more children under his or her direct supervision, care and control at any one time from families other than that of the provider without having in full force and effect a written license issued by the Department upon such terms as may be prescribed by the rules and regulations adopted and promulgated by the Department. The license may be a provisional license, a probationary license, or an operating license. A city, village, or county which has rules, regulations, or ordinances in effect on July 10, 1984, which apply to programs furnished for two or three children from different families may continue to license providers of such programs. If the license of a person is suspended or revoked pursuant to section 71-1915, such person shall not be licensed by any city, village, or county rules, regulations, or ordinances until the person is licensed pursuant to this section. Any provider not covered by sections 71-1908 to 71-1917 may voluntarily subject himself, herself, or itself to coverage.

(3) A provisional license shall be issued to all applicants for the first year of operation. At the end of one year of operation, the Department shall either issue an operating license or renew or refuse to renew the provisional license. The provisional license may be renewed once if the Department determines that:

(a) A licensee is unable to comply with all license requirements and standards, is making a good faith effort to comply, and is capable of compliance within the next six months;

(b) The effect of the current inability to comply with a rule or regulation does not present an unreasonable risk to the health, safety, or well-being of children or staff; and

(c) The licensee has a written plan of correction that has been approved by the Department which is to be completed within the renewal period.

(4) The Department may issue a probationary license to a licensee holding an operating license for up to six months. The probationary license may be issued if the Department determines that:

(a) A licensee is unable to comply with all licensure requirements and standards or has had a history of non compliance.

(b) The effect of non compliance with any rule or regulation does not present an unreasonable risk to the health, safety, or well-being of children or staff and

(c) The licensee has a written plan of correction that has been approved by the Department.

(5) Operating license issued under sections 71-1908 to 71-1917 shall expire two years from the date of issuance and shall be subject to renewal under such terms as may be prescribed by the rules and regulations of the Department in effect at the time of the renewal.

(6) There shall be a twenty-five dollar fee charged for the issuance or renewal of each license for providers with a licensing capacity of less than thirty children and a fifty dollar fee charged for the issuance or renewal of each license for providers with a licensing capacity of thirty or more children. The license fee shall be paid to the Department which shall retain the fee, except that when a city, village, or county has adopted any rule, regulation, or ordinance which establishes standards for licensed providers pursuant to subsection (2) of section 71-1914 and conducts all necessary inspections of any licensed provider pursuant to such subsection, the Department shall transmit the license fee paid by such provider to the city, village, or county conducting the inspections.

(7) A license may be denied for cause, after notice and hearing, in accordance with such rules and regulations as may be adopted and promulgated by the Department. A person who has had a license suspended or revoked pursuant to section 71-1915 shall not be eligible to reapply for a license for a period of two years.

(8) A license shall be denied or revoked if an applicant or licensee has been found guilty of a crime involving the neglect, physical abuse, or sexual abuse of a child or an adult.

71-1911.01. Display of License. The provisional, probationary, or operating license issued pursuant to section 71-1911 shall be displayed by the licensee in a prominent place so that it is clearly visible to parents and others.

71-1912. Department; Establish Standards; Investigation; Inspection.

(1) The Department shall adopt and promulgate rules and regulations establishing standards for the physical well-being, safety, and protection of children pursuant to the licensing of providers. Such standards shall insure that the provider of a program is providing proper care for and treatment of the children served and that such care and treatment is consistent with the children's physical well-being, safety, and protection. Such standards shall not require the use of any specific instructional materials or affect the contents of any course of instruction which may be offered by a program. Before issuance or renewal of a license, the Department shall investigate or cause an investigation to be made, when it deems necessary, to determine if the applicant or person in charge of the program meets or is capable of meeting the physical well-being, safety, and protection standards and the other rules and regulations of the Department. The Department may investigate the character of prospective or existing licensees, any member of the licensee's household, and the staff and employees of programs by making a national criminal history record information check. The Department may at any time inspect or cause an inspection to be made of any place where a program is operating to determine if such program is being properly conducted.

(2) The rules and regulations adopted and promulgated pursuant to subsection (1) of this section shall contain provisions which encourage the involvement of parents in child care for their children and insure the

availability, accessibility, and high quality of services for children in family child care homes. The rules and regulations shall be adopted and promulgated pursuant to the Administrative Procedure Act, except that the Department shall hold a public hearing in each geographic area of the state prior to the adoption, amendment, or repeal of any rule or regulation.

71-1913. Fire and Health Inspections. The Department may request the State Fire Marshal to inspect any program for fire safety pursuant to section 81-502 and may request the Department of Health to inspect any program to determine if it meets sanitation and physical well-being standards of the Department of Social Services for the care and protection of the children pursuant to section 71-901. The authority to make such inspections may be delegated to qualified local fire prevention personnel pursuant to section 81-502 or to qualified local environmental health personnel by the Department of Health. The State Fire Marshal and the Director of Health shall immediately notify the Department of Social Services whenever they delegate their authority for such inspections.

71-1913.01. Immunization Requirements; Record; Report.

(1) Each program shall require the parents or guardian of each child enrolled in such program to present within thirty days after enrollment and periodically thereafter:

(a) Proof that the child is protected by age-appropriate immunization against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, tetanus, and hemophilus influenza type B and such other diseases as the Department of Health may from time to time specify based on then current medical and scientific knowledge, (b) certification by a physician, certified nurse practitioner, or physician assistant that immunization is not appropriate for a stated medical reason, or (c) a written statement that the parent or guardian does not wish to have such child so immunized and the reasons therefor. The program shall exclude a child from attendance until such proof, certification, or written statement is provided. At the time the parent or guardian is notified that such information is required, he or she shall be notified in writing of his or her right to submit a certification or written statement pursuant to subdivision (b) or (c) of this subsection.

(2) Each program shall keep a written record of immunization, the certification, or the written statement of the parent or guardian. Such record certification, or statement shall be kept by the program as part of the child's file, shall be available to the Department of Social Services, and shall be filed with the Department of Health for review and inspection. Each program shall report to the Department of Health by November of each year the status of immunization for children enrolled as of September 30 of that year.

71-1913.02. Immunization Reports; Audit, Deficiencies; Departments; Duties.

(1) The Department of Health shall perform annually a random audit of the reports submitted under section 71-1913.01 to check for compliance with such section on an annual basis and such other audits and inspections as are necessary to prevent the introduction or spread of disease. Audit results shall be reported to the Department of Social Services.

(2) The Department of Health discovers noncompliance with section 71-1913.01, the Department of Health shall allow a noncomplying program thirty days to correct deficiencies. If deficiencies are not corrected, the Department of Health shall notify the Department of Social Services in writing within five working days. The Department of Social Services shall notify the Department of Health of any action taken as a result of such report.

(3) The Department of Health shall develop and provide educational and other materials to the programs and the public as may be necessary to implement section 71-1913.01.

71-1913.03. Immunization; Department; Adopt Rules and Regulations. The Department of Health shall adopt and promulgate rules and regulations relating to the required levels of protection, using as a guide the recommendations of the

American Academy of Pediatrics and the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, Public Health Service, and the methods, manner and frequency of reporting of each child's immunization status. The Department of Health shall furnish each program with copies of such rules and regulations and any other material which will assist in carrying out section 71-1913.01.

71-1914. Department; Serve as Coordinating Agency; Local Rules and Regulations; Report of Violation.

(1) The Department shall be the state's coordinating agency for regulating programs in this state in order to:

(a) provide efficient services pursuant to sections 71-1908 to 71-1917,

(b) avoid duplication of services, and

(c) prevent an unnecessary number of inspections of any program. The Department may request cooperation and assistance from local and state agencies and such agencies shall promptly respond. The extent of any agency's cooperation may be included in the report to the Legislature pursuant to section 71-1917.

(2) A city, village, or county may adopt rules, regulations, or ordinances establishing physical well-being and safety standards for providers of programs whether or not such providers are subject to licensure under section 71-1911. If a city, village, or county adopts any rules, regulations, or ordinances establishing physical well-being and safety standards for providers subject to licensure under section 71-1911,

(a) such rules, regulations, or ordinances shall be identical to the Department's rules and regulations for licensed providers pursuant to sections 71-1908 to 71-1917, except that a city, village, or county which has rules, regulations, or ordinances in effect on July 10, 1984, which apply to programs furnished for two or three children from different families may continue to license providers of such programs, and

(b) the city, village, or county and the department shall coordinate the inspection and supervision of licensed providers to avoid duplication of inspections. A city, village, or county shall report any violation of its rules, regulations, or ordinances regulating providers subject to licensure to the director who may cause a written charge to be brought pursuant to section 71-1915. The city, village, or county may administer and enforce its rules, regulations, and ordinances establishing physical well-being and safety standards for providers of programs, except that the exclusive remedy for the violation of any rules, regulations, and ordinances regulating providers subject to licensure pursuant to section 71-1911 shall be by the director pursuant to section 71-1915.

71-1915. Violation; Charges; Content; Notice; Hearing; Penalty; Emergency Powers; Injunction.

(1) Whenever the director has reason to believe that a violation of any provision of sections 71-1908 to 71-1914 or of any rule, regulation, or order of the Department has occurred, he or she may cause a written charge to be served upon each alleged violator. The charge shall specify the provision of sections 71-1908 to 71-1914 or the rule, regulation, or order alleged to be violated and the facts alleged to constitute a violation of such section, rule, regulation, or order. The provisional or probationary license of a person may be suspended or revoked if periodic review or inspection by the Department indicates that insufficient progress has been made toward compliance. The director shall provide for notice and, if requested by the alleged violator, a full and fair hearing at which each alleged violator shall answer the charges. The notice shall be delivered to each alleged violator by personal service, by certified or registered mail to his or her last-known address or by publication. Notice by publication shall only be made if personal service or service by mail cannot be effectuated. The alleged violator may request a hearing within ten days after delivery of the notice. Following the hearing, if held, or within fifteen days after delivery of the notice if no hearing is held, the director shall determine whether the charges are true or not, and if true, the director may:

(a) issue a declaratory order finding the charges to be true,

(b) revoke or suspend the provisional, probationary or operating license,

(c) issue a probationary license if the determinations of subsection (4) of section 71-1911 are applicable, or

(d) impose a civil penalty of five dollars for each child in the program for each day in violation after the Department issues its order finding a violation.

If the Department has initiated a license suspension or revocation, (i) such action may continue to finality even if the license of the licensee has been surrendered and (ii) household members of the licensee or current staff members of such licensee shall not become the licensee of the program while such action is pending.

(2) Any civil penalty assessed and unpaid under subsection (1) of this section shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska in the district court of the county in which the violator resides or owns property.

(3) Whenever the director finds that an emergency exists requiring immediate action to protect the physical well-being and safety of a child in a program, the director may, without notice or hearing, issue an order declaring the existence of such an emergency and requiring that such action be taken as the director deems necessary to meet the emergency. Notwithstanding the provisions of subsection (1) of this section, such order shall be effective immediately. Any person to whom the order is directed shall comply immediately, except that upon application to the director, the person shall be afforded a hearing as soon as possible and not later than ten days after his or her application for the hearing. On the basis of such hearing the director shall continue to enforce his or her order or revoke or modify it.

(4) In addition to the powers provided to the director in this section, he or she may petition the appropriate district court for an injunction whenever he or she believes that any person is violating any provision of sections 71-1908 to 71-1917 or any rule, regulation, or order adopted and promulgated pursuant to such sections. It shall be the duty of each county attorney or the Attorney General to whom the director reports a violation to cause appropriate proceedings to be instituted without delay to ensure compliance with such sections, rules, regulations, and orders.

71-1916. Department; Administrative Procedures. The department shall adopt and promulgate such rules and regulations, consistent with sections 71-1908 to 1915, as it shall deem necessary for (1) the proper care and protection of children by providers under such sections, (2) the issuance, suspension, and revocation of licenses for program providers, and (3) the proper administration of such sections. Hearings conducted by the Department pursuant to section 71-1915 and any other contested cases of the Department shall be in accordance with the Administrative Procedures Act. An appeal may be taken from the decision of the Department. The appeal shall be in accordance with the Act.

71-1917. Annual Report; Contents. The annual report required under subdivision (11) of section 43-2615 shall include:

(1) The number of license applications received under sections 71-1908 to 71-1917;

(2) The number of licenses issued under such sections;

(3) The number of license applications denied under such sections;

(4) The number of complaints investigated under such sections;

(5) The number of licenses revoked under such sections;

(6) The number and dollar amount of civil penalties levied pursuant to section 71-1915; and

(7) Information which may assist the Legislature in determining the extent of cooperation provided to the Department by other state and local agencies pursuant to section 71-1914.

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